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VIRGINIA BLACK MOUNTAIN COAL CO., Inc. *v.* VIRGINIA-LEE CO., Inc., et al.

March 14, 1912.

[74 S. E. 177.]

1. Contracts (§ 183*)—Joint and Several Contracts.—Plaintiff coal company executed three contracts with the three defendant coal companies, each of which were separate in form but identical in terms, and each referred to the respective defendants as “party of the first part” and to plaintiff as “party of the second part,” the purpose of the contracts being to market the output of the parties without harmful competition. The second paragraph of each contract provided that the party of the second part would accept all coal delivered by the first party and pay on the 15th of each month, following. Another paragraph required the second party to secure a sufficient car supply. Another paragraph provided that, if a full settlement was not made by the second party within 30 days after due, the first party might cancel the agreement, and the last paragraph provided that “this agreement is to be construed as though all the parties to such agreements had executed one and the same agreement.” Held, that the contracts were several, and not joint, so that plaintiff could not join all of defendants in an action for breach of one of them.

[Ed. Note.—For other cases, see Contracts, Cent. Dig. §§ 780-785, 788; Dec. Dig. § 183.* 3 Va.-W. Va. Enc. Dig. 385.]

2. Contracts (§ 147*)—Joint or Several Contracts—Intention.—Whether a contract is joint or several or joint and several depends upon the intention of the parties ascertained therefrom, and such intention must prevail over the literal interpretation of detached words and clauses.

[Ed. Note.—For other cases, see Contracts, Cent. Dig. §§ 730, 743; Dec. Dig. § 147.* 3 Va.-W. Va. Enc. Dig. 384.]

Error to Circuit Court of City of Norfolk.

Action by the Virginia Black Mountain Coal Company, Incorporated, against the Virginia-Lee Company, Incorporated, and others. Judgment sustaining a plea of abatement by the unnamed defendants, and plaintiff brings error. Affirmed.

RIVERSIDE & DAN RIVER COTTON MILLS CO. *v.* CARTER.

March 14, 1912.

[74 S. E. 183.]

1. Trial (§ 139*)—Injury to Employee—Instructions—Promise to Repair.—In an action for injury to an employee in a dimly lighted

*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes.